UNITED STATES INTERNATIONAL TRADE COMMISSION

COMMERCIAL AVAILABILITY OF APPAREL INPUTS (2004): EFFECT OF PROVIDING PREFERENTIAL TREATMENT TO APPAREL OF FANCY POLYESTER FILAMENT FABRIC FROM CARIBBEAN BASIN COUNTRIES

Investigation No. 332-458-014

September 2004

Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries

U.S. International Trade Commission Investigation No. 332-458-014

Products	**Apparel of fancy polyester filament fabric**
Requesting Parties	**Fishman & Tobin, Inc., Conshohocken, PA**
Date of Commission Report: USTR **Public**	**September 14, 2004** **September 2004**
Commission Contact	**Robert W. Wallace (202-205-3458; robert.wallace@usitc.gov)**

NOTICE
THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO USTR ON SEPTEMBER 14, 2004. ALL CONFIDENTIAL INFORMATION HAS BEEN REMOVED AND REPLACED WITH ASTERISKS (***).

Summary of Findings

The Commission's analysis indicates that granting duty-free and quota-free treatment to U.S. imports of apparel made in eligible Caribbean Basin countries from certain polyester filament fabrics, regardless of the source of the fabrics, could have some adverse effect on U.S. textile producers and their workers. The proposed preferential treatment would likely have a negligible effect on U.S. apparel producers and their workers. Further, the proposed preferential treatment would likely benefit U.S. firms making the apparel in eligible countries, and their U.S.-based workers, as well as U.S. consumers.

Background

On February 2, 2004, following receipt of a request from the United States Trade Representative (USTR), the Commission instituted investigation No. 332-458, *Commercial Availability of Apparel Inputs (2004): Effect of Providing Preferential Treatment to Apparel from Sub-Saharan African, Caribbean Basin, and Andean Countries*, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) to provide advice regarding the probable economic effect of granting preferential treatment for apparel made from fabrics or yarns that are the subject of petitions filed by interested parties in 2004 with the Committee for the Implementation of Textile Agreements (CITA) under the "commercial availability" provisions of the African Growth and Opportunity Act (AGOA), the United States-Caribbean Basin Trade Partnership Act (CBTPA), and the Andean Trade Promotion and Drug Eradication Act (ATPDEA).[1]

The Commission's advice in this report relates to a petition received by CITA on August 3, 2004, alleging that certain polyester filament fabric cannot be supplied by the domestic industry in commercial quantities in a timely manner. The petitioner requests that the President proclaim preferential treatment for apparel made in eligible CBTPA beneficiary countries from such fabric, regardless of the source of the fabric. The President is required to submit a report to the House Committee on Ways and Means and to the Senate Committee on Finance that sets forth the action proposed to be implemented, the reasons for such action,

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[1] For more information on the investigation, see the Commission's notice of investigation published in the *Federal Register* of Feb. 9, 2004 (69 F.R. 6003) and consult the Commission's website at *www.usitc.gov/332s/shortsup/shortsupintro.htm*.

and the advice obtained from the Commission and the appropriate advisory committee within 60 days after a request is received from an interested party.[2]

Discussion of the product

The petition states that the fabrics are classified in the Harmonized Tariff Schedule of the United States (HTS) under four statistical reporting numbers that provide for certain woven fabrics containing 85 percent or more by weight of textured polyester filaments, depending on fabric weight and whether the fabrics are dyed (5407.52.20.20 and 5407.52.20.60) or made of yarns of different colors (5407.53.20.20 and 5407.53.20.60). The fabrics named in the petition are wholly of polyester filaments and are used by the petitioner in boys' suits, which are classified in HTS chapter 62 (apparel, not knitted or crocheted) and are dutiable at 27.3 percent ad valorem in 2004.

The fabrics named in the petition are made in plain, twill, and satin weave patterns, and are either dyed in fabric form ("piece-dyed") or made from yarns of different colors.[3] The yarns used to make the fabrics are of different sizes (in combinations of 75, 100, 150, and 300 denier)[4] and are either 100-percent cationic yarns or different mixtures of cationic and disperse fibers (the mixtures, expressed as a percentage, are 25-75, 50-50, and 75-25).[5] For example, a fabric can be made of 75 denier cationic yarn and 150 denier disperse yarn. The petition states that two different colors can be used in one dye vat and each color will adhere to either a cationic or disperse yarn. It states that the use of such yarns results in the manufacture of high-quality "fancy" fabrics that have a highly distinctive look (e.g., heather and multicolor styles), with a variety of color and background effects that cannot be duplicated with the use of disperse yarns alone.

The petitioner, Fishman & Tobin, imports children's clothing either from its subsidiary in the Dominican Republic or from independent contractors in Guatemala and Nicaragua.[6] A trade report states that the firm "controls some 90 percent of the boys' dresswear market--offering suits, dress shirts, blazers and pants for the Claiborne, Van Heusen, Arrow and Sean John brands, as well as private label [***] programs."[7] Fishman & Tobin sources the subject fabrics from Taiwan ***. The petition states that Fishman & Tobin intended to purchase the subject fabrics in lots of 25,000 to 50,000 yards. According to Fishman & Tobin, ***."[8]

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[2] In Executive Order No. 13191, the President delegated to CITA the authority to determine whether particular fabrics or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner. The President authorized CITA and USTR to submit the required report to the Congress.

[3] Information in the paragraph is from the petition filed with CITA on behalf of Fishman & Tobin by Sharretts, Paley, Carter & Blauvelt, P.C., July 29, 2004, and email correspondence with Fishman & Tobin and its counsel, Aug. 2004.

[4] Denier is a measure of the linear density, or weight per unit length, of a yarn. It indicates the weight, in grams, of 9,000 meters of yarn (the higher the denier number, the heavier or thicker the yarn). See U.S. Customs Service (now the Bureau of Customs and Border Protection, Department of Homeland Security), *Customs Bulletin and Decisions*, vol. 34, No. 52, Dec. 27, 2000, p. 114.

[5] Cationic dyes, or basic dyes, contain positively charged amino groups that are attracted to negative groups in fibers. The colors that these dyes produce are exceptionally bright; the dyes produce excellent color fastness in synthetics. Disperse dyes are almost insoluble in water; particles of dye disperse in the water without dissolving but, rather, dissolve in the fibers. See Phyllis G. Tortora and Billie J. Collier, *Understanding Textiles*, 5th ed. (Prentice-Hall, Inc., Upper Saddle River, NJ, 1997), p. 424.

[6] The petition states that the garments imported by Fishman & Tobin from the Dominican Republic are made by Minikin Togs, Inc., a subsidiary that has seven factories and two warehouses located in the Santiago Free Trade Zone.

[7] See "The Present: Offering a True Competitive Advantage," *DNR* (*Daily News Record*), Fairchild Publications, New York, NY, Aug. 9, 2004 (page 9 of a 19-page advertisement on the firm celebrating 90 years of being in business).

[8] Robert Granato, Vice President, Fabric Sourcing & Purchasing, Fishman & Tobin, email correspondence, Aug. 17, 2004.

Discussion of affected U.S. industries, workers, and consumers

Fabric producers

Fabrics of a kind named in the petition reportedly are made in the United States by Burlington, a division of International Textile Group (ITG), Greensboro, NC.[9] Burlington said it uses cationic-disperse yarns in about one-fourth of its polyester fabrics to create heather-style and multicolor fancy fabrics.[10] The firm said it makes the fabrics from cationic and disperse yarns in any combination of *** denier and mixtures of cationic-disperse yarns ***. For example, Burlington stated that it currently is weaving a fabric ***. The firm purchases the yarns from domestic fiber producers such as Invista and Unifi, weaves the fabrics in Richmond, NC, and finishes them in Hurt, VA. The firm stated that it weaves the fabrics to customer specifications, ***.

In a written statement to CITA of August 23, 2004, Milliken & Co., Spartanburg, SC, stated that it has the machinery, manpower, and desire to supply the U.S. and Caribbean Basin apparel industries with commercial quantities of the subject fabrics.[11] However, a Milliken official stated that the firm does not make the fabrics specified in the petition.[12] ***

Yarn producers

Unifi, Inc., Greensboro, NC, stated that its domestic production includes the capability to produce 100-percent polyester filament yarns of a kind used in the subject fabrics.[13] The firm indicated that it has the production capability to make 100-percent cationic textured yarns in 70, 100, 150, and 300 deniers; 50-50 cationic-disperse yarns in 150 and 300 deniers; and 25-75 and 75-25 cationic-disperse yarns in 300 denier. ***

Dillon Yarn Corp., Dillon, SC, states that it produces textured polyester filament yarn of a kind used in production of the subject fabrics.[14] ***

Apparel companies

Trade sources indicate that the U.S. market for boys' suits of fancy polyester fabrics is supplied mostly by imports. As noted above, the petitioner, Fishman & Tobin, which reportedly accounts for about 90 percent of the U.S. market for boys' dress clothing, currently manufactures or sources the garments abroad, such as in CBTPA countries. *** According to ***, a customer of Fishman & Tobin, the boys' suits made from the subject fabrics offer performance and value, which are important considerations in a consumer's purchasing decision for boys' apparel. ***[15]

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[9] The petition states that Fishman & Tobin received confirmation from four domestic mills (Milliken & Co., Texfi Industries, Burlington Worldwide, and Delta Mills Marketing) that they do not currently make the subject fabrics and have no plans to do so. In telephone interviews with Commission staff, Burlington stated that it makes fabrics of a kind named in the petition, while Milliken confirmed that it does not make the subject fabrics (see discussion on Burlington and Milliken later in this report). Texfi Industries is no longer in business; New River Industries purchased the "Texfi" name and made it into a marketing unit.

[10] Information on Burlington is from Joe Gorga, President and Chief Executive Officer, ITG, written submission to CITA, Aug. 19, 2004; ***, telephone interviews by Commission staff, Aug. and Sept. 2004.

[11] Ben Shoaf, President, Apparel & Specialty Fabrics Division, Milliken & Co., written submission to CITA, Aug. 23, 2004.

[12] ***, telephone interview by Commission staff, Sept. 3, 2004.

[13] Information in the paragraph is from Thomas H. Caudle, Jr., Vice President, Global Operations, Unifi, Inc., written submission to CITA, Aug. 23, 2004, ***, telephone interview by Commission staff, Aug. 20, 2004, and email correspondence, Sept. 3, 2004.

[14] Information in the paragraph is from Shawn Dougherty, Director, Strategy and Trade Affairs, Dillon Yarn Corp., Dillon, SC, written submission to CITA, Aug. 23, 2004, and telephone interview by Commission staff, Aug. 20, 2004. ***

[15] ***, interview by Commission staff, Sept. 7, 2004.

Views of interested parties

No written submissions were filed with the Commission.

Probable economic effect advice[16]

The Commission’s analysis indicates that granting duty-free and quota-free treatment to U.S. imports of apparel made in eligible CBTPA beneficiary countries from the subject fabrics, regardless of the source of the fabrics, could have some adverse effect on U.S. textile producers and their workers. Burlington states that it makes fancy polyester filament fabrics of a kind named in the petition from domestic yarns. The proposed preferential treatment could reduce demand for U.S.-made fancy polyester filament fabrics and, in turn, weaken demand for U.S.-made yarns used in such fabrics.

The proposed preferential treatment likely would have a negligible effect on U.S. apparel producers and their employees. Imports supply most of the U.S. market for boys' apparel made of the subject fabrics. The expected increase in imports of apparel made in eligible CBTPA countries from the subject fabrics would likely displace mostly imports from other countries, because U.S. production is likely for niche markets or quick response programs. The proposed preferential treatment would likely benefit U.S. firms making apparel in eligible CBTPA countries from the subject fabrics by increasing the supply and availability of such fabrics. The proposed preferential treatment also would likely benefit U.S. consumers of apparel made from the subject fabrics to the extent that importers pass on some of the duty savings to retail consumers. As noted above, the rate of duty on boys' manmade-fiber suits is 27.3 percent ad valorem.

[16] The Commission’s advice is based on information currently available to the Commission.